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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,738	12/08/2003	Gerard J. Carlson	200309595-1	3971

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FORT COLLINS, CO 80527-2400

EXAMINER
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FITZGERALD, JOHN P

ART UNIT	PAPER NUMBER
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2856

DATE MAILED: 04/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/730,738

Applicant(s)

CARLSON ET AL.

Examiner

John P. Fitzgerald

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 18 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,3,4,6,8,9,23,25 and 43-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,3,4,6,8,9 and 43-48 is/are allowed.
- 6) ☒ Claim(s) 23 and 25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments, see pages 17 and 18, filed 18 January 2005, with respect to claims 1, 3, 4, 6, 8, 9, 43-48, in particular, regarding the employment and/or method step of measuring the ambient temperature, have been fully considered and are persuasive. The previous rejection of the claims has been withdrawn. However, Applicant's arguments regarding claims 23 and 25 have been fully considered but they are not persuasive. As pointed out in the rejection below, computer and printer combinations, and signals and/or messages sent between the two devices is considered old and well known. Signals and/or messages that controllers (within the printer and/or programming of the computer/operating system) send information back and forth between one another indicating all types of information, including ink quantity/status, paper jams, out-of-paper/refill, etc, thus it is considered well within the purview of one having ordinary skill in the art to employ such signals and/or messages sent by the controller and/or programming, or any other desired signal and/or message representative of the media (ink) level within the imaging apparatus to indicate to a user of the status thereof.

### ***Claim Rejections - 35 USC § 103***

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 23 and 25 are rejected under 35 U.S.C. § 102(b) as being anticipated by US 5,136,305 to Ims. Ims discloses an imaging apparatus having all the recited elements of an

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imaging apparatus configured to form images on a sheet media (Figs. 1-4) including a reservoir (18) (Fig. 2) configured to support imaging media (ink); a thermistor device (34) configured to provide a level (note: Merriam-Webster's Dictionary 10<sup>th</sup> Ed. defines level as: the magnitude of a quantity considered in relation to an arbitrary reference value; broadly: MAGNITUDE, INTENSITY) signal corresponding to a quantity of imaging media within a majority of a depth-wise dimension of the reservoir; and a controller (see Fig. 1) coupled to in signal communication with the thermistor device and configured to control at least one operation (i.e. re-filling) of the imaging apparatus in accordance to the level signal (as recited in claim 23); and wherein the thermistor device is further configured to provide the level signal in correspondence to a level of the imaging media in contact with a lengthwise portion of the thermistor device (as recited in claim 25).

***Allowable Subject Matter***

4. Claims 1, 3, 4, 6, 8, 9 and 43-48 are allowed over the Prior Art of record.

***Election/Restrictions***

5. This application contains claims drawn to an invention nonelected with traverse in a response by the Applicant dated 18 October 2004. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Fitzgerald whose telephone number is (571) 272-2843. The examiner can normally be reached on Monday-Friday from 7:00 AM to 3:30 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams, can be reached on (571) 272-2208. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you

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have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature, possibly reading 'JF', in black ink.

JF

04/12/2005

A handwritten signature in black ink, appearing to read 'Hezron Williams'.

HEZRON WILLIAMS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800